

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

EVOLVED WIRELESS, LLC

§

v.

§

SAMSUNG ELECTRONICS CO., LTD.,
et al

§ Case No. 2:21-cv-00033-JRG

§

§

MINUTES FOR PRETRIAL CONFERENCE
HELD BEFORE U. S. DISTRICT JUDGE RODNEY GILSTRAP
August 31, 2023

OPEN: 08:56 AM

ADJOURN: 04:41 PM

ATTORNEYS FOR PLAINTIFF: See attached

ATTORNEYS FOR DEFENDANTS: See attached

LAW CLERKS: Jeffrey Jacobsen
Dylan Freeman
Christian Tatum

COURT REPORTER: Shawn McRoberts, RMR, CRR

COURTROOM DEPUTY: Andrea Brunson, CP

TIME	MINUTE ENTRY
08:56 AM	Court opened.
08:56 AM	Court called for announcements from counsel.
08:57 AM	Court provided instructions and housekeeping matters to the parties. Court directed the parties to file by today lead counsel designations. Case is set for jury selection and trial on Friday, September 29, 2023. Trial will begin following empanelment of jury. Eight jurors will be selected. Peremptory strikes: Four per side. <i>Voir dire</i> : 30 minutes per side. The parties will be given 12 hours per side for the jury trial portion. Opening statements: 30 minutes per side. Closing arguments: 40 minutes per side. Court to be notified by 10:00 PM each night of disputes/objections not resolved through meet and confer efforts. Three (3) jointly prepared three-ring binders with disputed information are to be submitted to the Court by 7:00 AM the following day. The Court will be available in chambers by 7:30 AM every morning to take up any housekeeping matters or late-arriving disputes that might come up during trial. Deposition-clip objections and/or disputes are to be taken up by the Court the day before the day such deposition

TIME	MINUTE ENTRY
	is to be used. Deposition clips should be accompanied by closed-captioning. Court encouraged the parties to utilize the meet and confer process during the course of the trial to resolve disputes. It is the Court's intention to bring the jury in every morning at 8:30 AM. Lunch will be brought in daily for the jurors. Rule 50(a) motions will be heard by the Court after all the evidence is in and both parties have rested. Court will conduct an informal charge conference (off the record) after the close of evidence. Formal charge conference will follow thereafter and on the record. Court reminded counsel not to refer to individuals by their first names, and to advise their respective witnesses re: same. Court instructed counsel to refer to the Court's Standing Order re: the sealing of the courtroom re: confidential or highly sensitive testimony. Court instructed the parties to follow the instructions from Deputy Clerk in Charge, Mrs. Kecia Clendening re: receipt, review and return of the Juror Questionnaires. Court instructed the parties to refer to the Court's Standing Order re: number and use of pre-admitted exhibits. Parties to be prepared every morning of trial to read into the record those exhibits used prior day. Twelve juror notebooks to be delivered to chambers no later than 12:00 PM noon on Wednesday, September 27, 2023. Notebooks to contain: Complete copies of each patent-in-suit (single-sided); claim construction chart (single-sided); page for each witness with a head and shoulder photograph, name and ruled lines for notetaking; three-hole punch notepad for further notes and a non-clicking pen. Each witness page should be tabbed for easy navigation. A reminder that expert witnesses are confined to the four corners of their report.
09:22 AM	Court proceeded with hearing argument re: the following disputed dispositive motions:
09:22 AM	[SEALED] Samsung's Motion for Partial Summary Judgment of License and Exhaustion (Dkt. No. 94).
09:22 AM	Courtroom sealed.
09:22 AM	Ms. Maroulis presented argument for Defendants.
09:37 AM	Responsive argument by Mr. Bruster for Plaintiff.
09:46 AM	Rebuttal argument by Ms. Maroulis for Defendants.
09:49 AM	Court DENIED Dkt. No. 94.
09:52 AM	Courtroom unsealed.
09:52 AM	Court heard argument re: [SEALED] Samsung's Motion for Summary Judgment of Invalidity of the Asserted Claims for Lack of Written Description (Dkt. No. 93).
09:52 AM	Mr. Pak presented argument for Defendants.
10:08 AM	Responsive argument by Mr. Wright for Plaintiff.
10:18 AM	Rebuttal argument by Mr. Pak for Defendants.
10:20 AM	Court DENIED Dkt. No. 93.
10:22 AM	Court heard argument re: [SEALED] Samsung's Opposed Motion to Exclude Expert Opinions of Dr. Jonathan Putnam (Dkt. No. 91).
10:22 AM	Mr. Hardy presented argument for Defendants.
10:32 AM	Responsive argument by Mr. Latchford for Plaintiff.
10:41 AM	Rebuttal argument by Mr. Hardy for Defendants.
10:44 AM	Court DENIED Dkt. No. 91.
10:46 AM	Recess.
11:00 AM	Court reconvened.

TIME	MINUTE ENTRY
11:00 AM	Court heard argument re: [SEALED] Samsung's Motion for Partial Summary Judgment of No Pre-Suit Damages (Dkt. No. 92).
11:00 AM	Ms. Maroulis presented argument for Defendants.
11:06 AM	Responsive argument by Mr. Chin for Plaintiff.
11:06 AM	Off the record.
11:07 AM	On the record.
11:07 AM	Continuation of argument by Mr. Chin for Plaintiff.
11:19 AM	Rebuttal argument by Ms. Maroulis for Defendants.
11:22 AM	Court GRANTED and made rulings as set forth in the record re: Dkt. No. 92.
11:23 AM	Court heard argument re: [SEALED] Samsung's Opposed Motion to Exclude Expert Opinions of Nigel Jones Related to Verizon Declaration (Dkt. No. 90).
11:23 AM	Mr. Lynch presented argument for Defendants.
11:28 AM	Responsive argument by Mr. Chin for Plaintiff.
11:33 AM	Rebuttal argument by Mr. Lynch for Defendants.
11:34 AM	Court DENIED Dkt. No. 90.
11:35 AM	Court heard argument re: [SEALED] Plaintiff's Motion to Strike Portions of the Expert Rebuttal Report of Matthew R. Lynde, Ph.D. (Dkt. No. 100).
11:35 AM	Mr. Latchford presented argument for Plaintiff.
11:45 AM	Responsive argument by Mr. Hardy for Defendants.
11:54 AM	Rebuttal argument by Mr. Latchford for the Plaintiff.
11:56 AM	Court DENIED Dkt. No. 100.
11:57 AM	Recess for lunch.
12:51 PM	Court reconvened.
12:51 PM	Court heard argument re: [SEALED] Plaintiff's Motion for Summary Judgment on Samsung's FRAND-Related Counterclaims and Related Affirmative Defense (Dkt. No. 99).
12:52 PM	Mr. Bruster presented argument for Plaintiff.
01:14 PM	Responsive argument by Mr. Hardy for Defendants.
01:23 PM	Court DENIED Dkt. No. 99.
01:28 PM	Court heard argument re: [SEALED] Plaintiff's Motion to Strike Portions of the Expert Report and Testimony of Mark Mahon Regarding the <i>ra-PRACH-MaskIndex</i> (Dkt. No. 98).
01:28 PM	Mr. Wright presented argument for Plaintiff.
01:37 PM	Responsive argument by Mr. Briggs for Defendants.
01:42 PM	Rebuttal argument by Mr. Wright for Plaintiff.
01:44 PM	Court DENIED and made rulings as set forth in the record re: Dkt. No. 98.
01:46 PM	Court heard argument re: [SEALED] Plaintiff's Motion for Partial Summary Judgment Regarding Wang's Entitlement to Claim Priority to The Wang Provisional (Dkt. No. 97).
01:46 PM	Mr. Wright presented argument for Plaintiff.
01:52 PM	Responsive argument by Mr. McKee for Defendants.
01:54 PM	Rebuttal argument by Mr. Wright for Plaintiff.
01:55 PM	Court DENIED Dkt. No. 97.

TIME	MINUTE ENTRY
01:56 PM	Court heard argument re: [SEALED] Plaintiff's Motion for Summary Judgment Regarding Invalidity Due to Alleged Improper Inventorship Under 35 U.S.C. § 102(f) (Dkt. No. 96).
01:56 PM	Mr. Chin presented argument for Plaintiff.
02:10 PM	Responsive argument by Mr. Briggs for Defendants.
02:17 PM	Rebuttal argument by Mr. Chin for Plaintiff.
02:19 PM	Court GRANTED Dkt. No. 96 subject to conditions set forth in the record.
02:23 PM	Conclusion of argument re: dispositive motions.
02:26 PM	Court directed the parties to meet and confer re: remaining disputed MILS.
02:27 PM	Recess.
02:54 PM	Court reconvened.
02:54 PM	Update provided to the Court re: meet and confer efforts. Mr. Bruster on behalf of Plaintiff recited into the record agreement of the parties re: disputed MILS. Mr. Pak confirmed on behalf of Defendants.
02:57 PM	Court proceeded to hear argument re: parties' remaining objections to MILS:
02:58 PM	Samsung's MIL 1: Argument presented.
02:58 PM	Court ruling: DENIED; instructions provided as set forth in the record.
03:01 PM	Court addressed [SEALED] Plaintiff's Motion to Bifurcate Defendants' FRAND Counterclaim and Related Issues (Dkt. No. 181) and DENIED same.
03:04 PM	Samsung's MIL 2: Argument presented.
03:06 PM	Court ruling: DENIED.
03:06 PM	Samsung's MIL 3: Argument presented.
03:17 PM	Court ruling: DENIED.
03:19 PM	Samsung's MIL 5: Argument presented.
03:27 PM	Court ruling: GRANTED; instructions provided as set forth in the record.
03:29 PM	Plaintiff's MIL 1: Argument presented.
03:30 PM	Off the record.
03:30 PM	On the record.
03:30 PM	Continuation of argument re: Plaintiff's MIL 1.
03:40 PM	Court made rulings as set forth in the record.
03:41 PM	Plaintiff's MIL 2: Argument presented.
03:52 PM	Court made rulings as set forth in the record.
03:52 PM	Plaintiff's MIL 3: Argument presented.
03:59 PM	Court ruling: DENIED.
04:01 PM	Conclusion of arguments re: MILS.
04:01 PM	Court directed the parties to meet and confer re: remaining exhibit disputes.
04:02 PM	Recess.
04:28 PM	Court reconvened.
04:28 PM	Updated provided to the Court re: meet and confer efforts re: remaining exhibit disputes.
04:30 PM	Court provided guidance re: exhibit redactions.
04:35 PM	Agreement re: exhibits recited into the record by Mr. Latchford for the Plaintiff.
04:40 PM	Mr. Pak confirmed on behalf of Defendants.

TIME	MINUTE ENTRY
04:40 PM	Court directed both sides to notify court staff by 10:00 PM tonight whether additional pretrial matters will need to be heard tomorrow. Court also directed both sides to file updated exhibit lists on the docket reflecting agreement of the parties.
04:41 PM	Unless additional pretrial matters need to be heard tomorrow by the Court, pretrial process is completed.
04:41 PM	Court adjourned.